

DETAILED ACTION

Amendment filed on February 19, 2004 has been entered. Claims 28, 29 are under consideration. Claims 24-26 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Any rejection that is not addressed in this Office Action is considered obviated in view of the amendments.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 28, 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farnag et al US Patent 5,643,584 in view of Simon et al US Patent 5,730,972 and Patel US patent 4,863,970.

Farnag teaches methods of improving retinoid penetration comprising compositions comprising a retinoid (recited in Farnag as a tretinoin), a polyoxyethylene alcohol surfactant such as polyethylene glycol glyceryl stearate, an antioxidant such as ascorbic acid, and an acrylic polymer such as a carbopol. (see col 2, lines 5-35; col 5, lines 1-20; examples 1-5; claim 19). Farnag explicitly encourages the use of surfactants in amounts effective to enhance penetration of retinoid into skin. (see col 2, lines 7-10). The concentrations of each such components of Farnag fall within the ranges of the instantly claimed components. Farnag only fails to use ascorbic acid-2-glucoside.